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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **SOUTHERN DIVISION**

14
15 SECURITIES AND EXCHANGE
COMMISSION,

16 Plaintiff,

17 vs.

18 TKO FARMS, INC., a private Wyoming
Corporation; AGRAVITAE, INC., a private
19 Wyoming Corporation; KENNETH
DEWAYNE OWEN, an individual;
20 REYNALDO AGUILAR (JR.), an
individual; JAMES BRIAN BLAYLOCK,
an individual; ROSS GREGORY
21 ERSKINE, an individual, and the ESTATE
OF GILBERT ALLAN PENHOLLOW,

22 Defendants,

23 and

24 FREELIFE LOGISTICS LLC, a private
Wyoming Limited Liability Company;
25 PERSONAL GROUP, LLC, a private
Nevada Limited Liability Company;
26 SIGNATURE ONE CAPITAL INC, a
private Nevada Corporation;
27 and STORBER, LLC, a private California
Limited Liability Company,

28 Relief Defendants.

Case No.: 8:22-cv-00941-CJC-KES

**[PROPOSED] PROTECTIVE
ORDER**

1 1. INTRODUCTION

2 1.1 PURPOSES AND LIMITATIONS

3 Discovery in this action is likely to involve production of confidential,
4 proprietary, or private information for which special protection from public
5 disclosure and from use for any purpose other than prosecuting this litigation may
6 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
7 enter the following Stipulated Protective Order. The parties acknowledge that this
8 Order does not confer blanket protections on all disclosures or responses to
9 discovery and that the protection it affords from public disclosure and use extends
10 only to the limited information or items that are entitled to confidential treatment
11 under the applicable legal principles. The parties further acknowledge, as set forth in
12 Section 12.3, below, that this Stipulated Protective Order does not entitle them to
13 file confidential information under seal; Civil Local Rule 79-5 sets forth the
14 procedures that must be followed and the standards that will be applied when a party
15 seeks permission from the court to file material under seal.

16 1.2 GOOD CAUSE STATEMENT

17 This action is likely to involve confidential, proprietary, and/or personally
18 identifying information for which special protection from public disclosure and
19 from use for any purpose other than prosecution of this action is warranted. Such
20 confidential and proprietary materials and information consist of, among other
21 things, confidential business or financial information, personally identifying
22 information, confidential personal financial information, information otherwise
23 generally unavailable to the public, or which may be privileged or otherwise
24 protected from disclosure under state or federal statutes, court rules, case decisions,
25 or common law. Accordingly, to expedite the flow of information, to facilitate the
26 prompt resolution of disputes over confidentiality of discovery materials, to
27 adequately protect information the parties are entitled to keep confidential, to ensure
28 that the parties are permitted reasonable necessary uses of such material in

1 preparation for and in the conduct of trial, to address their handling at the end of the
2 litigation, and serve the ends of justice, a protective order for such information is
3 justified in this matter. It is the intent of the parties that information will not be
4 designated as confidential for tactical reasons and that nothing be so designated
5 without a good faith belief that it has been maintained in a confidential, non-public
6 manner, and there is good cause why it should not be part of the public record of
7 this case.

8 9 2. DEFINITIONS

10 2.1 Action: Securities and Exchange Commission v. TKO FARMS,
11 INC., et al., Case No.: 8:22-cv-00941-CJC-KES, C.D.Cal.

12 2.2 Challenging Party: a Party or Non-Party that challenges the
13 designation of information or items under this Order.

14 2.3 "CONFIDENTIAL" Information or Items: information (regardless of
15 how it is generated, stored or maintained) or tangible things that qualify for
16 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
17 the Good Cause Statement.

18 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
19 their support staff).

20 2.5 Designating Party: a Party or Non-Party that designate information or
21 items that it produces in disclosures or in responses to discovery as
22 "CONFIDENTIAL."

23 2.6 Disclosure or Discovery Material: all items or information, regardless
24 of the medium or manner in which it is generated, stored, or maintained (including,
25 among other things, testimony, transcripts, and tangible things), that are produced
26 or generated in disclosures or responses to discovery in this matter.

27

28

1 2.7 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as
3 an expert witness or as a consultant in this Action.

4 2.8 House Counsel: attorneys who are employees of a party to this Action.
5 House Counsel does not include Outside Counsel of Record or any other outside
6 counsel.

7 2.9 Non-Party: any natural person, partnership, corporation, association,
8 or other legal entity not named as a Party to this action.

9 2.10 Outside Counsel of Record: attorneys who are not employees of a
10 party to this Action but are retained to represent or advise a party to this Action
11 and have appeared in this Action on behalf of that party or are affiliated with a law
12 firm which has appeared on behalf of that party, and includes support staff.

13 2.11 Party: any party to this Action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (and their
15 support staffs).

16 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 2.13 Professional Vendors: persons or entities that provide litigation
19 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)
21 and their employees and subcontractors.

22 2.14 Protected Material: any Disclosure or Discovery Material that is
23 Designated as "CONFIDENTIAL."

24 2.15 Receiving Party: a Party that receives Disclosure or Discovery
25 Material from a Producing Party.

26
27 3. SCOPE

28 The protections conferred by this Stipulation and Order cover not only

1 Protected Material (as defined above), but also (1) any information copied or
2 extracted from Protected Material; (2) all copies, excerpts, summaries, or
3 compilations of Protected Material; and (3) any testimony, conversations, or
4 presentations by Parties or their Counsel that might reveal Protected Material.

5 Any use of Protected Material at trial will be governed by the orders of the
6 trial judge. This Order does not govern the use of Protected Material at trial.

7
8 4. DURATION

9 Even after final disposition of this litigation, the confidentiality obligations
10 imposed by this Order will remain in effect until a Designating Party agrees
11 otherwise in writing or a court order otherwise directs. Final disposition will be
12 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
13 with or without prejudice; and (2) final judgment herein after the completion and
14 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
15 including the time limits for filing any motions or applications for extension of
16 time pursuant to applicable law.

17
18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection.

20 Each Party or Non-Party that designates information or items for protection under
21 this Order must take care to limit any such designation to specific material that
22 qualifies under the appropriate standards. The Designating Party must designate for
23 protection only those parts of material, documents, items, or oral or written
24 communications that qualify so that other portions of the material, documents,
25 items, or communications for which protection is not warranted are not swept
26 unjustifiably within the ambit of this Order.

27 Mass, indiscriminate, or routinized designations are prohibited. Designations
28 that are shown to be clearly unjustified or that have been made for an improper

1 purpose (e.g., to unnecessarily encumber the case development process or to
2 impose unnecessary expenses and burdens on other parties) may expose the
3 Designating Party to sanctions.

4 If it comes to a Designating Party's attention that information or items that it
5 designated for protection do not qualify for protection, that Designating Party must
6 promptly notify all other Parties that it is withdrawing the inapplicable designation.

7 5.2 Manner and Timing of Designations. Except as otherwise provided in
8 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
9 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
10 under this Order must be clearly so designated before the material is disclosed or
11 produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic documents,
14 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
15 Producing Party affix at a minimum, the legend "CONFIDENTIAL-SUBJECT TO
16 PROTECTIVE ORDER" (hereinafter "CONFIDENTIAL legend"), to each page that
17 contains protected material. If only a portion or portions of the material on a page
18 qualifies for protection, the Producing Party also must clearly identify the protected
19 portion(s) (e.g., by making appropriate markings in the margins).

20 A Party or Non-Party that makes original documents available for inspection
21 need not designate them for protection until after the inspecting Party has indicated
22 which documents it would like copied and produced. During the inspection and
23 before the designation, all of the material made available for inspection will be
24 deemed "CONFIDENTIAL." After the inspecting Party has identified the
25 documents it wants copied and produced, the Producing Party must determine
26 which documents, or portions thereof, qualify for protection under this Order.
27 Then, before producing the specified documents, the Producing Party must affix
28 the "CONFIDENTIAL legend" to each page that contains Protected Material. If

1 only a portion or portions of the material on a page qualifies for protection, the
2 Producing Party also must clearly identify the protected portion(s) (e.g., by making
3 appropriate markings in the margins).

4 (b) for testimony given in depositions, that the Designating Party identify the
5 Disclosure or Discovery Material on the record before the close of the deposition.
6 After receiving the testimony transcript, the Designating Party must identify the (by
7 page and line number) all protected testimony.

8 (c) for information produced in some form other than documentary and for
9 any other tangible items, that the Producing Party affix in a prominent place on the
10 exterior of the container or containers in which the information is stored the legend
11 "CONFIDENTIAL-SUBJECT TO PROTECTIVE ORDER." If only a portion or
12 portions of the information warrants protection, the Producing Party, to the extent
13 practicable, will identify the protected portion(s).

14 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
15 failure to designate qualified information or items does not, standing alone, waive
16 the Designating Party's right to secure protection under this Order for such
17 material. Upon timely correction of a designation, the Receiving Party must make
18 reasonable efforts to assure that the material is treated in accordance with the
19 provisions of this Order.

20 21 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

22 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
23 designation of confidentiality at any time that is consistent with the Court's
24 Scheduling Order.

25 6.2 Meet and Confer. The Challenging Party will initiate the dispute
26 resolution process under Local Rule 37.1 et seq.

27 6.3 The burden of persuasion in any such challenge proceeding will be on
28 the Designating Party. Frivolous challenges, and those made for an improper

1 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
2 parties) may expose the Challenging Party to sanctions. Unless the Designating
3 Party has waived or withdrawn the confidentiality designation, all parties will
4 continue to afford the material in question the level of protection to which it is
5 entitled under the Producing Party's designation until the Court rules on the
6 challenge.

7
8 7. ACCESS TO AND USE OF PROTECTED MATERIAL

9 7.1 Basic Principles. A Receiving Party may use Protected Material that is
10 disclosed or produced by another Party or by a Non-Party in connection with this
11 Action only for prosecuting, defending, attempting to settle this Action, or appealing
12 a final judgment in this Action. Such Protected Material may be disclosed only to the
13 categories of persons and under the conditions described in this Order. When the
14 Action has been terminated, a Receiving Party must comply with the provisions of
15 section 13 below (FINAL DISPOSITION).

16 Protected Material must be stored and maintained by a Receiving Party at a
17 location and in a secure manner that ensures that access is limited to the persons
18 authorized under this Order.

19 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
20 otherwise ordered by the court or permitted in writing by the Designating Party, a
21 Receiving Party may disclose any information or item designated
22 "CONFIDENTIAL" only to:

23 (a) the Receiving Party's Outside Counsel of Record in this Action, as well
24 as employees of said Outside Counsel of Record to whom it is reasonably
25 necessary to disclose the information for this Action;

26 (b) the officers, directors, executors and employees (including House
27 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this
28 Action;

1 (c) Experts (as defined in this Order) of the Receiving Party to whom
2 disclosure is reasonably necessary for this Action and who have signed the
3 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

4 (d) the Court and its personnel;

5 (e) court reporters and their staff;

6 (f) professional jury or trial consultants, mock jurors, and Professional
7 Vendors to whom disclosure is reasonably necessary for this Action and who have
8 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

9 (g) the author or recipient of a document containing the information or a
10 custodian or other person who otherwise possessed or knew the information;

11 (h) during their depositions, witnesses, and attorneys for witnesses, in the
12 Action to whom disclosure is reasonably necessary provided: (1) the deposing
13 party requests that the witness sign the form attached as Exhibit A hereto; and (2)
14 they will not be permitted to keep any confidential information unless they sign the
15 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise
16 agreed by the Designating Party or ordered by the court. Pages of transcribed
17 deposition testimony or exhibits to depositions that reveal Protected Material may
18 be separately bound by the court reporter and may not be disclosed to anyone
19 except as permitted under this Stipulated Protective Order; and

20 (i) any mediator or settlement officer, and their supporting personnel,
21 mutually agreed upon by any of the parties engaged in settlement discussions.

22 7.3 Disclosure of "CONFIDENTIAL" Information or Items by the
23 Commission. In addition to and notwithstanding the provisions of this Order, the
24 Commission may use Confidential Discovery Material in a manner consistent with
25 the "Routine Uses of Information" set forth in SEC Form 1662, a copy of which is
26 attached hereto as Exhibit B.

27

28

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
2 IN OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation
4 that compels disclosure of any information or items designated in this Action as
5 "CONFIDENTIAL," that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification will
7 include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to
9 issue in the other litigation that some or all of the material covered by the subpoena
10 or order is subject to this Protective Order. Such notification will include a copy of
11 this Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be pursued
13 by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served
15 with the subpoena or court order will not produce any information designated in
16 this action as "CONFIDENTIAL" before a determination by the court from which
17 the subpoena or order issued, unless the Party has obtained the Designating Party's
18 permission. The Designating Party will bear the burden and expense of seeking
19 protection in that court of its confidential material and nothing in these provisions
20 should be construed as authorizing or encouraging a Receiving Party in this Action
21 to disobey a lawful directive from another court.

22
23 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
24 PRODUCED IN THIS LITIGATION

25 (a) The terms of this Order are applicable to information produced by a Non-
26 Party in this Action and designated as "CONFIDENTIAL." Such information
27 produced by Non-Parties in connection with this litigation is protected by the
28 remedies and relief provided by this Order. Nothing in these provisions should be

1 construed as prohibiting a Non-Party from seeking additional protections.

2 (b) In the event that a Party is required, by a valid discovery request, to
3 produce a Non-Party's confidential information in its possession, and the Party is
4 subject to an agreement with the Non-Party not to produce the Non-Party's
5 confidential information, then the Party will:

6 (1) promptly notify in writing the Requesting Party and the Non-Party
7 that some or all of the information requested is subject to a confidentiality
8 agreement with a Non-Party;

9 (2) promptly provide the Non-Party with a copy of the Stipulated
10 Protective Order in this Action, the relevant discovery request(s), and a reasonably
11 specific description of the information requested; and

12 (3) make the information requested available for inspection by the
13 Non-Party, if requested.

14 (c) If the Non-Party fails to seek a protective order from this court within 14
15 days of receiving the notice and accompanying information, the Receiving Party
16 may produce the Non-Party's confidential information responsive to the discovery
17 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
18 not produce any information in its possession or control that is subject to the
19 confidentiality agreement with the Non-Party before a determination by the court.
20 Absent a court order to the contrary, the Non-Party shall bear the burden and
21 expense of seeking protection in this court of its Protected Material.

22
23 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

24 If a Receiving Party learns that, by inadvertence or otherwise, it has
25 disclosed Protected Material to any person or in any circumstance not authorized
26 under this Stipulated Protective Order, the Receiving Party must immediately (a)
27 notify in writing the Designating Party of the unauthorized disclosures, (b) use its
28 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform

1 the person or persons to whom unauthorized disclosures were made of all the terms
2 of this Order, and (d) request such person or persons to execute the
3 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.
4

5 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
6 PROTECTED MATERIAL

7 When a Producing Party gives notice to Receiving Parties that certain
8 inadvertently produced material is subject to a claim of privilege or other
9 protection, the obligations of the Receiving Parties are those set forth in Federal
10 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
11 whatever procedure may be established in an e-discovery order that provides for
12 production without prior privilege review. Pursuant to Federal Rule of Evidence
13 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
14 of a communication or information covered by the attorney-client privilege or
15 work product protection, the parties may incorporate their agreement in the
16 stipulated protective order submitted to the court.
17

18 12. MISCELLANEOUS

19 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
20 person to seek its modification by the Court in the future.

21 12.2 Right to Assert Other Objections. By stipulating to the entry of this
22 Protective Order no Party waives any right it otherwise would have to object to
23 disclosing or producing any information or item on any ground not addressed in
24 this Stipulated Protective Order. Similarly, no Party waives any right to object on
25 any ground to use in evidence of any of the material covered by this Protective
26 Order.

27 12.3 Filing Protected Material. A Party that seeks to file under seal any
28 Protected Material must comply with Civil Local Rule 79.5. Protected Material

1 may only be filed under seal pursuant to a court order authorizing the sealing of the
2 specific Protected Material at issue. If a Party's request to file Protected Material
3 under seal is denied by the court, then the Receiving Party may file the information
4 in the public record unless otherwise instructed by the court.

5
6 13. FINAL DISPOSITION

7 After the final disposition of this Action, as defined in paragraph 4, within
8 60 days of a written request by the Designating Party, each Receiving Party must
9 return all Protected Material to the Producing Party or destroy such material,
10 except as noted herein with respect to the SEC's records retention requirements.
11 As used in this subdivision, "all Protected Material" includes all copies, abstracts,
12 compilations, summaries, and any other format reproducing or capturing any of the
13 Protected Material. Whether the Protected Material is returned or destroyed, the
14 Receiving Party must submit a written certification to the Producing Party (and, if
15 not the same person or entity, to the Designating Party) by the 60 day deadline that
16 (1) identifies (by category, where appropriate) all the Protected Material that was
17 returned or destroyed and (2) affirms that the Receiving Party has not retained any
18 copies, abstracts, compilations, summaries or any other format reproducing or
19 capturing any of the Protected Material. Notwithstanding this provision, Counsel
20 are entitled to retain an archival copy of all pleadings, motion papers, trial,
21 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
22 and trial exhibits, expert reports, attorney work product, and consultant and expert
23 work product, even if such materials contain Protected Material. Any such archival
24 copies that contain or constitute Protected Material remain subject to this
25 Protective Order as set forth in Section 4 (DURATION). Notwithstanding this
26 provision, nothing in this Stipulated Protective Order should be read as altering the
27 SEC's policies or procedures regarding record retention as approved by the
28 National Archives and Records Administration; to the extent the obligations under

1 this Order may conflict with those policies or procedures, the SEC will adhere to
2 its record retention policies and procedures and in doing so will not be deemed to
3 be acting contrary to this Order.

4
5 14. Any willful violation of this Order may be punished by civil or criminal
6 contempt proceedings, financial or evidentiary sanctions, reference to disciplinary
7 authorities, or other appropriate action at the discretion of the Court.

8
9 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

10
11 Dated: January 30, 2023

SECURITIES AND EXCHANGE
COMMISSION

/s/ Michael E. Welsh

MICHAEL E. WELSH

Attorney for Plaintiff

Securities and Exchange Commission

15
16 Dated: January 30, 2023

CLYDE SNOW & SESSIONS P.C.

/s/ Keith M. Woodwell

KEITH M. WOODWELL

Counsel to Defendants TKO Farms, Inc.,

Agravitae Inc., and Kenneth Owen

19
20 Dated: January 30, 2023

THE LAW OFFICES OF THOMAS L.
GOURDE

/s/ Thomas L. Gourde

THOMAS L. GOURDE

Counsel to Defendant Ross G. Erskine and

Relief Defendants Personal Group LLC

and Signature One Capital Inc.

25
26
27
28 Dated: January 30, 2023

BONA LAW PC

/s/ Jon F. Cieslak
JON F. CIESLAK
*Counsel to the Estate of Gilbert Allan
Penhollow*

Dated: January 30, 2023

LAW OFFICE OF CORBETT H
WILLIAMS
/s/ Corbett H. Williams
CORBETT H. WILLIAMS
*Counsel to Reynaldo Aguilar, Jr. and
Relief Defendant Storber LLC*

I hereby attest pursuant to Civil Local Rule 5-4.3.4(a)(2) that concurrence and authorization in the electronic filing of this document has been obtained from the other signatories.

Dated: January 30, 2023

SECURITIES AND EXCHANGE
COMMISSION
/s/ Michael E. Welsh
Michael E. Welsh
Attorney for Plaintiff
Securities and Exchange Commission

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Date: January 30, 2023

Karen E. Scott
HON. KAREN E. SCOTT
UNITED STATES
MAGISTRATE JUDGE

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I _____ [print or type full name], of
_____, [print or type full address], declare under penalty
of perjury that I have read in its entirety and understand the Stipulated Protective
Order that was issued by the United States District Court for the Central District of
California on _____ [date] in the case of *SEC v. TKO FARMS, INC.*, et al., 8:22-cv-
00941-CJC-KES I agree to comply with and to be bound by all the terms
of this Stipulated Protective Order and I understand and acknowledge that failure
to so comply could expose me to sanctions and punishment in the nature of
contempt. I solemnly promise that I will not disclose in any manner any
information or item that is subject to this Stipulated Protective Order to any person
or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Central District of California for the purpose of enforcing the terms
of this Stipulated Protective Order, even if such enforcement proceedings occur
after termination of this action. I hereby appoint _____
[print or type full name] of _____ [print or type full
address and telephone number] as my California agent for service of process in
connection with this action or any proceedings related to enforcement of this
Stipulated Protective Order.

Date: _____

City and State where signed: _____

Printed name: _____

Signature: _____